

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 879

Introduced by Cornett, 45.

Read first time January 11, 2010

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend sections
2 9-1,101, 66-719, 77-2701.38, 77-2711, 77-2712.03,
3 77-2789, 77-2790, 77-2796, 77-27,100, 77-27,119, 77-5725,
4 77-5726, 77-5735, and 81-8,128, Reissue Revised Statutes
5 of Nebraska, and section 60-484, Revised Statutes
6 Cumulative Supplement, 2008; to change provisions
7 relating to waiver of interest, the streamlined sales and
8 use tax agreement, failure to file, penalties, certain
9 appeal procedures, certain tax incentives, and funding;
10 to require the Department of Motor Vehicles to provide
11 certain information to the Department of Revenue as
12 prescribed; to provide for publication of delinquent
13 taxpayer lists, disclosure of certain information to the
14 Department of Labor, and applicability; to harmonize

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1 provisions; to provide a duty for the Revisor of
2 Statutes; to provide operative dates; to repeal the
3 original sections; and to declare an emergency.
4 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 9-1,101, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 9-1,101 (1) The Nebraska Bingo Act, the Nebraska County
4 and City Lottery Act, the Nebraska Lottery and Raffle Act, the
5 Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery
6 and Raffle Act, and section 9-701 shall be administered and
7 enforced by the Charitable Gaming Division of the Department
8 of Revenue, which division is hereby created. The Department of
9 Revenue shall make annual reports to the Governor, Legislature,
10 Auditor of Public Accounts, and Attorney General on all tax revenue
11 received, expenses incurred, and other activities relating to the
12 administration and enforcement of such acts.

13 (2) The Charitable Gaming Operations Fund is hereby
14 created. Any money in the fund available for investment shall be
15 invested by the state investment officer pursuant to the Nebraska
16 Capital Expansion Act and the Nebraska State Funds Investment Act.

17 (3) (a) Forty percent of the taxes collected pursuant to
18 sections 9-239, 9-344, 9-429, and 9-648 shall be available to the
19 Charitable Gaming Division for administering and enforcing the acts
20 listed in subsection (1) of this section, ~~and section 81-8,128.~~ The
21 remaining sixty percent shall be transferred to the General Fund.
22 Any portion of the forty percent not used by the division in the
23 administration and enforcement of such acts and section shall be
24 distributed as provided in this subsection.

25 (b) On or before November 1 each year, the State

1 Treasurer shall transfer fifty thousand dollars from the Charitable
2 Gaming Operations Fund to the Compulsive Gamblers Assistance Fund,
3 except that no transfer shall occur if the Charitable Gaming
4 Operations Fund contains less than fifty thousand dollars.

5 (c) Any money remaining in the Charitable Gaming
6 Operations Fund after the transfer pursuant to subdivision (b)
7 of this subsection not used by the Charitable Gaming Division in
8 its administration and enforcement duties pursuant to this section
9 may be transferred to the General Fund at the direction of the
10 Legislature.

11 (4) The Tax Commissioner shall employ investigators who
12 shall be vested with the authority and power of a law enforcement
13 officer to carry out the laws of this state administered by the Tax
14 Commissioner or the Department of Revenue and to enforce sections
15 28-1101 to 28-1117 relating to possession of a gambling device. For
16 purposes of enforcing sections 28-1101 to 28-1117, the authority
17 of the investigators shall be limited to investigating possession
18 of a gambling device, notifying local law enforcement authorities,
19 and reporting suspected violations to the county attorney for
20 prosecution.

21 (5) The Charitable Gaming Division may charge a fee for
22 publications and listings it produces. The fee shall not exceed the
23 cost of publication and distribution of such items. The division
24 may also charge a fee for making a copy of any record in its
25 possession equal to the actual cost per page. The division shall

1 remit the fees to the State Treasurer for credit to the Charitable
2 Gaming Operations Fund.

3 Sec. 2. Section 60-484, Revised Statutes Cumulative
4 Supplement, 2008, is amended to read:

5 60-484 (1)(a) This subsection applies until the
6 implementation date designated by the director pursuant to section
7 60-462.02. Except as otherwise provided in the Motor Vehicle
8 Operator's License Act, no resident of the State of Nebraska shall
9 operate a motor vehicle upon the alleys or highways of the State
10 of Nebraska until the person has obtained an operator's license
11 for that purpose.

12 (b) Application for an operator's license may be made in
13 a manner prescribed by the department. Such application may be made
14 to an examiner in any county. The examiner shall personally conduct
15 the examination of the applicant and deliver to each successful
16 applicant an examiner's certificate containing the statements made
17 pursuant to subdivision (c) of this subsection.

18 (c) In addition to any other information and questions
19 necessary to comply with the requirements and purposes of the act,
20 the applicant (i) shall provide his or her name, age, post office
21 address, place of residence unless the applicant is a program
22 participant under the Address Confidentiality Act, date of birth,
23 gender, social security number, and brief description of himself or
24 herself, (ii) may complete the voter registration portion pursuant
25 to section 32-308, (iii) shall be provided the advisement language

1 required by subsection (5) of section 60-6,197, (iv) shall answer
2 the following:

3 (A) Have you within the last three months (e.g. due
4 to diabetes, epilepsy, mental illness, head injury, stroke, heart
5 condition, neurological disease, etc.):

6 (I) lost voluntary control or consciousness ... yes ...
7 no

8 (II) experienced vertigo or multiple episodes of
9 dizziness or fainting ... yes ... no

10 (III) experienced disorientation ... yes ... no

11 (IV) experienced seizures ... yes ... no

12 (V) experienced impairment of memory, memory loss ... yes
13 ... no

14 Please explain:

15 (B) Do you experience any condition which affects your
16 ability to operate a motor vehicle? (e.g. due to loss of, or
17 impairment of, foot, leg, hand, arm; neurological or neuromuscular
18 disease, etc.) ... yes ... no

19 Please explain:

20 (C) Since the issuance of your last driver's
21 license/permit has your health or medical condition changed or
22 worsened? ... yes ... no

23 Please explain, including how the above affects your
24 ability to drive:, and (v) may answer the
25 following:

1 (A) Do you wish to register to vote as part of this
2 application process?

3 OPTIONAL - YOU ARE NOT REQUIRED TO ANSWER ANY OF THE
4 FOLLOWING QUESTIONS:

5 (B) Do you wish to be an organ and tissue donor?

6 (C) Do you wish to receive any additional specific
7 information regarding organ and tissue donation and the Donor
8 Registry of Nebraska?

9 (D) Do you wish to donate \$1 to promote the Organ and
10 Tissue Donor Awareness and Education Fund?

11 (d) Application for an operator's license shall be made
12 under oath or affirmation of the applicant.

13 (e) The social security number shall not be printed on
14 the operator's license and shall be used only (i) to furnish driver
15 record information to the United States Selective Service System
16 under section 60-483, (ii) with the permission of the director in
17 connection with the verification of the status of an individual's
18 driving record in this state or any other state, (iii) for purposes
19 of child support enforcement pursuant to section 42-358.08 or
20 43-512.06, or (iv) to furnish information regarding an applicant
21 for or holder of a commercial driver's license with a hazardous
22 materials endorsement to the Transportation Security Administration
23 of the United States Department of Homeland Security or its agent.

24 (f) (i) Except for an individual under the age of eighteen
25 years, each individual applying for an operator's license or a

1 state identification card shall furnish proof of date of birth
2 and identity by a valid Nebraska operator's license, a valid
3 Nebraska learner's permit, a valid Nebraska school permit, a
4 valid operator's license from another state or jurisdiction of the
5 United States, a certified birth certificate, a certified birth
6 registration, a valid United States passport, a valid United States
7 military identification card, United States military discharge
8 papers, other United States-based identification as approved by
9 the director, or information preserved in the digital system
10 implemented under section 60-484.01.

11 (ii) Any individual under the age of eighteen years
12 applying for an operator's license or a state identification card
13 shall provide a certified copy of his or her birth certificate,
14 a certified birth registration, or other reliable proof of his or
15 her identity and age accompanied by a certification signed by a
16 parent or guardian explaining the inability to produce a copy of
17 such birth certificate. The applicant may be required to furnish
18 proof to the examiner that the parent or guardian signing the
19 certification is in fact the parent or guardian of such applicant.

20 (2)(a) This subsection applies beginning on the
21 implementation date designated by the director pursuant to section
22 60-462.02. Except as otherwise provided in the Motor Vehicle
23 Operator's License Act, no resident of the State of Nebraska shall
24 operate a motor vehicle upon the alleys or highways of this state
25 until the person has obtained an operator's license for that

1 purpose.

2 (b) Application for an operator's license or a state
3 identification card shall be made in a manner prescribed by the
4 department. Such application may be made to department personnel in
5 any county. Department personnel shall conduct the examination of
6 the applicant and deliver to each successful applicant an issuance
7 certificate containing the statements made pursuant to subdivision
8 (c) of this subsection.

9 (c) The applicant (i) shall provide his or her full legal
10 name, date of birth, mailing address, gender, race or ethnicity,
11 and social security number, two forms of proof of address of
12 his or her principal residence unless the applicant is a program
13 participant under the Address Confidentiality Act, evidence of
14 identity as required by subdivision (2)(f) of this subsection,
15 and a brief physical description of himself or herself, (ii)
16 may complete the voter registration portion pursuant to section
17 32-308, (iii) shall be provided the advisement language required
18 by subsection (5) of section 60-6,197, (iv) shall answer the
19 following:

20 (A) Have you within the last three months (e.g. due
21 to diabetes, epilepsy, mental illness, head injury, stroke, heart
22 condition, neurological disease, etc.):

23 (I) lost voluntary control or consciousness ... yes ...

24 no

25 (II) experienced vertigo or multiple episodes of

1 dizziness or fainting ... yes ... no

2 (III) experienced disorientation ... yes ... no

3 (IV) experienced seizures ... yes ... no

4 (V) experienced impairment of memory, memory loss ... yes

5 ... no

6 Please explain:

7 (B) Do you experience any condition which affects your
8 ability to operate a motor vehicle? (e.g. due to loss of, or
9 impairment of, foot, leg, hand, arm; neurological or neuromuscular
10 disease, etc.) ... yes ... no

11 Please explain:

12 (C) Since the issuance of your last driver's
13 license/permit, has your health or medical condition changed or
14 worsened? ... yes ... no

15 Please explain, including how the above affects your
16 ability to drive:, and (v) may answer the
17 following:

18 (A) Do you wish to register to vote as part of this
19 application process?

20 OPTIONAL - YOU ARE NOT REQUIRED TO ANSWER ANY OF THE
21 FOLLOWING QUESTIONS:

22 (B) Do you wish to be an organ and tissue donor?

23 (C) Do you wish to receive any additional specific
24 information regarding organ and tissue donation and the Donor
25 Registry of Nebraska?

1 (D) Do you wish to donate \$1 to promote the Organ and
2 Tissue Donor Awareness and Education Fund?

3 (d) Application for an operator's license or state
4 identification card shall include a signed oath, affirmation,
5 or declaration of the applicant that the information provided on
6 the application for the license or card is true and correct.

7 (e) The social security number shall not be printed on
8 the operator's license or state identification card and shall be
9 used only (i) to furnish information to the United States Selective
10 Service System under section 60-483, (ii) with the permission of
11 the director in connection with the verification of the status of
12 an individual's driving record in this state or any other state,
13 (iii) for purposes of child support enforcement pursuant to section
14 42-358.08 or 43-512.06, ~~ex~~ (iv) to furnish information regarding
15 an applicant for or holder of a commercial driver's license with
16 a hazardous materials endorsement to the Transportation Security
17 Administration of the United States Department of Homeland Security
18 or its agent, or (v) to furnish information to the Department of
19 Revenue under section 4 of this act.

20 (f)(i) Each individual applying for an operator's license
21 or a state identification card shall furnish proof of date of
22 birth and identity with documents containing a photograph or with
23 nonphoto identity documents which include his or her full legal
24 name and date of birth. Such documents shall include, but not be
25 limited to, any valid Nebraska operator's license or Nebraska state

1 identification card, a valid operator's license or identification
2 card from another state or jurisdiction of the United States, a
3 certified birth certificate, a valid United States passport, or
4 any other United States-based identification as approved by the
5 director.

6 (ii) Any individual under the age of eighteen years
7 applying for an operator's license or a state identification card
8 shall provide a certified copy of his or her birth certificate
9 or, if such individual is unable to provide a certified copy of
10 his or her birth certificate, other reliable proof of his or her
11 identity and age, as required in subdivision (2)(f)(i) of this
12 section, accompanied by a certification signed by a parent or
13 guardian explaining the inability to produce a copy of such birth
14 certificate. The applicant also may be required to furnish proof
15 to department personnel that the parent or guardian signing the
16 certification is in fact the parent or guardian of such applicant.

17 (iii) An applicant may present other documents as proof
18 of identification and age designated by the director. Any documents
19 accepted shall be recorded according to a written exceptions
20 process established by the director.

21 Sec. 3. Section 66-719, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 66-719 (1) Any person who neglects or refuses to file the
24 report or return due for any period or to pay the tax due for any
25 period within the time prescribed for the filing of such report or

1 return or for the payment of such tax under the motor fuel laws
2 shall automatically accrue a penalty of fifty dollars.

3 (2) Any person who neglects or refuses to file the report
4 or return due for any period or to pay the tax due for any period
5 within ten days after the time prescribed for the filing of such
6 report or return or the payment of such tax under the motor fuel
7 laws shall, in addition to the penalty in subsection (1) of this
8 section, be subject to the larger of:

9 (a) A penalty of one hundred dollars; or

10 (b) A penalty of ten percent of the tax not paid.

11 (3) (a) Notwithstanding anything in subsection (1) or (2)
12 of this section to the contrary, no penalty shall be imposed upon
13 any person who voluntarily reports an underpayment of tax by filing
14 an amended return and paying such tax if such amended return is
15 filed and payment is made within thirty days after the date such
16 tax was due.

17 (b) Except as provided in subsection (8) of this section,
18 interest shall not be waived on any additional tax due as reported
19 on any amended return, and such interest shall be computed from the
20 date such tax was due.

21 (4) Any person who neglects or refuses to report and pay
22 motor fuel tax on methanol, naphtha, benzine, benzol, kerosene,
23 or any other volatile, flammable, or combustible liquid that is
24 blended with motor vehicle fuel or undyed diesel fuel shall be
25 subject to a penalty equal to one hundred percent of the tax not

1 paid or one thousand dollars, whichever is larger. Such penalty
2 shall be in addition to the motor fuel tax due and all other
3 penalties provided by law.

4 (5) If any person knowingly files a false report or
5 return, the penalty shall be equal to one hundred percent of the
6 tax not paid or one thousand dollars, whichever is larger, which
7 penalty shall be in addition to all other penalties provided by
8 law.

9 (6) Any person who knowingly conducts any activities
10 requiring a license or permit under the motor fuel laws without
11 a license or permit or after a license or permit has been
12 surrendered, suspended, or canceled shall automatically accrue a
13 penalty of one hundred dollars per day for each day such violation
14 continues.

15 (7) The department may in its discretion waive all or
16 any portion of the penalties incurred upon sufficient showing
17 by the taxpayer that the failure to file or pay is not due
18 to negligence, intentional disregard of the law, rules, or
19 regulations, intentional evasion of the tax, or fraud committed
20 with intent to evade the tax or that such penalties should
21 otherwise be waived.

22 ~~(8)-(a)~~ (8) The department may in its discretion waive any
23 and all interest incurred upon sufficient showing by the taxpayer
24 that such interest should be waived.

25 ~~(b) Interest may only be waived if:~~

1 ~~(i) Interest is due to an error or unreasonable delay by~~
2 ~~the department;~~

3 ~~(ii) Interest is due to erroneous written advice by the~~
4 ~~department when the advice was a direct response to a written~~
5 ~~request for advice from the taxpayer and the taxpayer reasonably~~
6 ~~relied upon the advice; or~~

7 ~~(iii) Interest is due because of an amount erroneously~~
8 ~~refunded if the taxpayer did not request the refund and the refund~~
9 ~~was not caused by information provided by the taxpayer.~~

10 (9) All penalties collected by the department under this
11 section shall be remitted to the State Treasurer for credit to the
12 Highway Trust Fund.

13 Sec. 4. In order to assist the Department of Revenue in
14 carrying out its duties, the Department of Motor Vehicles shall
15 provide information about individuals holding an operator's or
16 driver's license or a state identification card under the Motor
17 Vehicle Operator's License Act to the Department of Revenue in a
18 manner agreed to by the Department of Revenue and the Department of
19 Motor Vehicles. The information shall include:

- 20 (1) The individual's name;
- 21 (2) The individual's address of record;
- 22 (3) The individual's social security number, if available
23 and permissible under law, and the individual's date of birth;
- 24 (4) The type of license, permit, or card held;
- 25 (5) The issuance date of the license, permit, or card;

1 (6) The expiration date of the license, permit, or card;

2 and

3 (7) The status of the license, permit, or card.

4 The Department of Revenue may enter into agreements with
5 the Director of Motor Vehicles to carry out this section.

6 Sec. 5. (1) The Department of Revenue and the Department
7 of Labor shall prepare, maintain, and publish a list of delinquent
8 taxpayers who owe taxes or fees, including interest, penalties,
9 and costs, in excess of twenty thousand dollars for which a
10 notice of lien has been filed with the appropriate filing officer
11 in accordance with the Uniform State Tax Lien Registration and
12 Enforcement Act. The list may be posted on the web site of the
13 Department of Revenue or the Department of Labor. The list shall
14 include the name and address of the delinquent taxpayer, the type
15 of tax or fee due, and the amount of tax or fee due, including
16 interest, penalties, and costs.

17 (2) The Tax Commissioner and Commissioner of Labor shall
18 update the list of delinquent taxpayers on a quarterly basis. The
19 list shall not include the name or related information of any
20 taxpayer who has entered into a payment agreement with the Tax
21 Commissioner or Commissioner of Labor and who is in compliance with
22 that agreement, or the name or related information of any person
23 who is protected by a stay that is in effect under the federal
24 bankruptcy law. The name of a taxpayer shall be removed from the
25 list within fifteen days after the payment in full of the debt

1 or within fifteen days after the taxpayer enters into a payment
2 agreement with the Tax Commissioner or Commissioner of Labor. A
3 taxpayer may be placed back on the list if the taxpayer is more
4 than fifteen days delinquent on a payment agreement.

5 (3) At least thirty days before the disclosure of the
6 name of a delinquent taxpayer pursuant to subsection (1) of this
7 section, the Tax Commissioner or Commissioner of Labor shall mail
8 a written notice to the delinquent taxpayer at the taxpayer's
9 last-known address informing the taxpayer that the failure to cure
10 the tax delinquency could result in the taxpayer's name being
11 included in a list of delinquent taxpayers that is published by the
12 Tax Commissioner or Commissioner of Labor pursuant to this section.

13 Sec. 6. Section 77-2701.38, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 77-2701.38 Streamlined sales and use tax agreement means
16 the streamlined sales and use tax agreement approved by the
17 implementing states on November 12, 2002, including amendments
18 ratified by the Legislature pursuant to section 77-2712.03.

19 Sec. 7. Section 77-2711, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 77-2711 (1)(a) The Tax Commissioner shall enforce
22 sections 77-2701.04 to 77-2713 and may prescribe, adopt, and
23 enforce rules and regulations relating to the administration and
24 enforcement of such sections.

25 (b) The Tax Commissioner may prescribe the extent to

1 which any ruling or regulation shall be applied without retroactive
2 effect.

3 (2) The Tax Commissioner may employ accountants,
4 auditors, investigators, assistants, and clerks necessary for the
5 efficient administration of the Nebraska Revenue Act of 1967 and
6 may delegate authority to his or her representatives to conduct
7 hearings, prescribe regulations, or perform any other duties
8 imposed by such act.

9 (3)(a) Every seller, every retailer, and every person
10 storing, using, or otherwise consuming in this state property
11 purchased from a retailer shall keep such records, receipts,
12 invoices, and other pertinent papers in such form as the Tax
13 Commissioner may reasonably require.

14 (b) Every such seller, retailer, or person shall keep
15 such records for not less than three years from the making of such
16 records unless the Tax Commissioner in writing sooner authorized
17 their destruction.

18 (4) The Tax Commissioner or any person authorized in
19 writing by him or her may examine the books, papers, records, and
20 equipment of any person selling property and any person liable for
21 the use tax and may investigate the character of the business of
22 the person in order to verify the accuracy of any return made or,
23 if no return is made by the person, to ascertain and determine
24 the amount required to be paid. In the examination of any person
25 selling property or of any person liable for the use tax, an

1 inquiry shall be made as to the accuracy of the reporting of city
2 sales and use taxes for which the person is liable under the Local
3 Option Revenue Act or sections 13-319, 13-324, and 13-2813 and
4 the accuracy of the allocation made between the various counties,
5 cities, villages, and municipal counties of the tax due. The Tax
6 Commissioner may make or cause to be made copies of resale or
7 exemption certificates and may pay a reasonable amount to the
8 person having custody of the records for providing such copies.

9 (5) The taxpayer shall have the right to keep or store
10 his or her records at a point outside this state and shall make his
11 or her records available to the Tax Commissioner at all times.

12 (6) In administration of the use tax, the Tax
13 Commissioner may require the filing of reports by any person or
14 class of persons having in his, her, or their possession or custody
15 information relating to sales of property, the storage, use, or
16 other consumption of which is subject to the tax. The report shall
17 be filed when the Tax Commissioner requires and shall set forth the
18 names and addresses of purchasers of the property, the sales price
19 of the property, the date of sale, and such other information as
20 the Tax Commissioner may require.

21 (7) It shall be a Class I misdemeanor for the Tax
22 Commissioner or any official or employee of the Tax Commissioner,
23 the State Treasurer, or the Department of Administrative Services
24 to make known in any manner whatever the business affairs,
25 operations, or information obtained by an investigation of records

1 and activities of any retailer or any other person visited
2 or examined in the discharge of official duty or the amount
3 or source of income, profits, losses, expenditures, or any
4 particular thereof, set forth or disclosed in any return, or
5 to permit any return or copy thereof, or any book containing
6 any abstract or particulars thereof to be seen or examined by
7 any person not connected with the Tax Commissioner. Nothing in
8 this section shall be construed to prohibit (a) the delivery to
9 a taxpayer, his or her duly authorized representative, or his
10 or her successors, receivers, trustees, executors, administrators,
11 assignees, or guarantors, if directly interested, of a certified
12 copy of any return or report in connection with his or her tax,
13 (b) the publication of statistics so classified as to prevent
14 the identification of particular reports or returns and the items
15 thereof, (c) the inspection by the Attorney General, other legal
16 representative of the state, or county attorney of the reports
17 or returns of any taxpayer when either (i) information on the
18 reports or returns is considered by the Attorney General to be
19 relevant to any action or proceeding instituted by the taxpayer
20 or against whom an action or proceeding is being considered or
21 has been commenced by any state agency or the county or (ii) the
22 taxpayer has instituted an action to review the tax based thereon
23 or an action or proceeding against the taxpayer for collection of
24 tax or failure to comply with the Nebraska Revenue Act of 1967 is
25 being considered or has been commenced, (d) the furnishing of any

1 information to the United States Government or to states allowing
2 similar privileges to the Tax Commissioner, (e) the disclosure of
3 information and records to a collection agency contracting with the
4 Tax Commissioner pursuant to sections 77-377.01 to 77-377.04, (f)
5 the disclosure to another party to a transaction of information
6 and records concerning the transaction between the taxpayer and
7 the other party, ~~or~~ (g) the disclosure of information pursuant to
8 section 77-27,195 or 77-5731, or (h) the disclosure of information
9 to the Department of Labor necessary for the administration of the
10 Employment Security Law or the Contractor Registration Act.

11 (8) Notwithstanding the provisions of subsection (7) of
12 this section, the Tax Commissioner may permit the Postal Inspector
13 of the United States Postal Service or his or her delegates to
14 inspect the reports or returns of any person filed pursuant to the
15 Nebraska Revenue Act of 1967 when information on the reports or
16 returns is relevant to any action or proceeding instituted or being
17 considered by the United States Postal Service against such person
18 for the fraudulent use of the mails to carry and deliver false and
19 fraudulent tax returns to the Tax Commissioner with the intent to
20 defraud the State of Nebraska or to evade the payment of Nebraska
21 state taxes.

22 (9) Notwithstanding the provisions of subsection (7) of
23 this section, the Tax Commissioner may permit other tax officials
24 of this state to inspect the tax returns, reports, and applications
25 filed under sections 77-2701.04 to 77-2713, but such inspection

1 shall be permitted only for purposes of enforcing a tax law and
2 only to the extent and under the conditions prescribed by the rules
3 and regulations of the Tax Commissioner.

4 (10) Notwithstanding the provisions of subsection (7)
5 of this section, the Tax Commissioner may, upon request, provide
6 the county board of any county which has exercised the authority
7 granted by section 81-1254 with a list of the names and addresses
8 of the hotels located within the county for which lodging sales tax
9 returns have been filed or for which lodging sales taxes have been
10 remitted for the county's County Visitors Promotion Fund under the
11 Nebraska Visitors Development Act.

12 The information provided by the Tax Commissioner shall
13 indicate only the names and addresses of the hotels located within
14 the requesting county for which lodging sales tax returns have been
15 filed for a specified period and the fact that lodging sales taxes
16 remitted by or on behalf of the hotel have constituted a portion of
17 the total sum remitted by the state to the county for a specified
18 period under the provisions of the Nebraska Visitors Development
19 Act. No additional information shall be revealed.

20 (11)(a) Notwithstanding the provisions of subsection (7)
21 of this section, the Tax Commissioner shall, upon written request
22 by the Auditor of Public Accounts or the Legislative Performance
23 Audit Committee, make tax returns and tax return information open
24 to inspection by or disclosure to Auditor of Public Accounts or
25 Legislative Performance Audit Section employees for the purpose of

1 and to the extent necessary in making an audit of the Department
2 of Revenue pursuant to section 50-1205 or 84-304. Confidential
3 tax returns and tax return information shall be audited only upon
4 the premises of the Department of Revenue. All audit workpapers
5 pertaining to the audit of the Department of Revenue shall be
6 stored in a secure place in the Department of Revenue.

7 (b) No employee of the Auditor of Public Accounts or
8 Legislative Performance Audit Section shall disclose to any person,
9 other than another Auditor of Public Accounts or Legislative
10 Performance Audit Section employee whose official duties require
11 such disclosure or as provided in subsections (2) and (3) of
12 section 50-1213, any return or return information described in the
13 Nebraska Revenue Act of 1967 in a form which can be associated
14 with or otherwise identify, directly or indirectly, a particular
15 taxpayer.

16 (c) Any person who violates the provisions of this
17 subsection shall be guilty of a Class I misdemeanor. For purposes
18 of this subsection, employee includes a former Auditor of Public
19 Accounts or Legislative Performance Audit Section employee.

20 (12) For purposes of this subsection and subsection (11)
21 of this section:

22 (a) Disclosure means the making known to any person in
23 any manner a tax return or return information;

24 (b) Return information means:

25 (i) A taxpayer's identification number and (A) the

1 nature, source, or amount of his or her income, payments, receipts,
2 deductions, exemptions, credits, assets, liabilities, net worth,
3 tax liability, tax withheld, deficiencies, overassessments, or tax
4 payments, whether the taxpayer's return was, is being, or will be
5 examined or subject to other investigation or processing or (B) any
6 other data received by, recorded by, prepared by, furnished to, or
7 collected by the Tax Commissioner with respect to a return or the
8 determination of the existence or possible existence of liability
9 or the amount of liability of any person for any tax, penalty,
10 interest, fine, forfeiture, or other imposition or offense; and

11 (ii) Any part of any written determination or any
12 background file document relating to such written determination;
13 and

14 (c) Tax return or return means any tax or information
15 return or claim for refund required by, provided for, or permitted
16 under sections 77-2701 to 77-2713 which is filed with the Tax
17 Commissioner by, on behalf of, or with respect to any person
18 and any amendment or supplement thereto, including supporting
19 schedules, attachments, or lists which are supplemental to or part
20 of the filed return.

21 (13) Notwithstanding the provisions of subsection (7) of
22 this section, the Tax Commissioner shall, upon request, provide any
23 municipality which has adopted the local option sales tax under the
24 Local Option Revenue Act with a list of the names and addresses
25 of the retailers which have collected the local option sales tax

1 for the municipality. The request may be made annually and shall
2 be submitted to the Tax Commissioner on or before June 30 of
3 each year. The information provided by the Tax Commissioner shall
4 indicate only the names and addresses of the retailers. The Tax
5 Commissioner may provide additional information to a municipality
6 so long as the information does not include any data detailing
7 the specific revenue, expenses, or operations of any particular
8 business.

9 (14) In all proceedings under the Nebraska Revenue Act
10 of 1967, the Tax Commissioner may act for and on behalf of the
11 people of the State of Nebraska. The Tax Commissioner in his or her
12 discretion may waive all or part of any penalties provided by the
13 provisions of such act or interest on delinquent taxes specified in
14 section 45-104.02, as such rate may from time to time be adjusted.

15 (15)(a) The purpose of this subsection is to set forth
16 the state's policy for the protection of the confidentiality
17 rights of all participants in the system operated pursuant to
18 the streamlined sales and use tax agreement and of the privacy
19 interests of consumers who deal with model 1 sellers.

20 (b) For purposes of this subsection:

21 (i) Anonymous data means information that does not
22 identify a person;

23 (ii) Confidential taxpayer information means all
24 information that is protected under a member state's laws,
25 regulations, and privileges; and

1 (iii) Personally identifiable information means
2 information that identifies a person.

3 (c) The state agrees that a fundamental precept for model
4 1 sellers is to preserve the privacy of consumers by protecting
5 their anonymity. With very limited exceptions, a certified service
6 provider shall perform its tax calculation, remittance, and
7 reporting functions without retaining the personally identifiable
8 information of consumers.

9 (d) The governing board of the member states in the
10 streamlined sales and use tax agreement may certify a certified
11 service provider only if that certified service provider certifies
12 that:

13 (i) Its system has been designed and tested to ensure
14 that the fundamental precept of anonymity is respected;

15 (ii) Personally identifiable information is only used and
16 retained to the extent necessary for the administration of model 1
17 with respect to exempt purchasers and for proper identification of
18 taxing jurisdictions;

19 (iii) It provides consumers clear and conspicuous
20 notice of its information practices, including what information
21 it collects, how it collects the information, how it uses the
22 information, how long, if at all, it retains the information, and
23 whether it discloses the information to member states. Such notice
24 shall be satisfied by a written privacy policy statement accessible
25 by the public on the web site of the certified service provider;

1 (iv) Its collection, use, and retention of personally
2 identifiable information is limited to that required by the member
3 states to ensure the validity of exemptions from taxation that are
4 claimed by reason of a consumer's status or the intended use of the
5 goods or services purchased and for documentation of the correct
6 assignment of taxing jurisdictions; and

7 (v) It provides adequate technical, physical, and
8 administrative safeguards so as to protect personally identifiable
9 information from unauthorized access and disclosure.

10 (e) The state shall provide public notification to
11 consumers, including exempt purchasers, of the state's practices
12 relating to the collection, use, and retention of personally
13 identifiable information.

14 (f) When any personally identifiable information that
15 has been collected and retained is no longer required for the
16 purposes set forth in subdivision (15)(d)(iv) of this section, such
17 information shall no longer be retained by the member states.

18 (g) When personally identifiable information regarding an
19 individual is retained by or on behalf of the state, it shall
20 provide reasonable access by such individual to his or her own
21 information in the state's possession and a right to correct any
22 inaccurately recorded information.

23 (h) If anyone other than a member state, or a person
24 authorized by that state's law or the agreement, seeks to discover
25 personally identifiable information, the state from whom the

1 information is sought should make a reasonable and timely effort to
2 notify the individual of such request.

3 (i) This privacy policy is subject to enforcement by the
4 Attorney General.

5 (j) All other laws and regulations regarding the
6 collection, use, and maintenance of confidential taxpayer
7 information remain fully applicable and binding. Without
8 limitation, this subsection does not enlarge or limit the state's
9 authority to:

10 (i) Conduct audits or other reviews as provided under the
11 agreement and state law;

12 (ii) Provide records pursuant to the federal Freedom of
13 Information Act, disclosure laws with governmental agencies, or
14 other regulations;

15 (iii) Prevent, consistent with state law, disclosure of
16 confidential taxpayer information;

17 (iv) Prevent, consistent with federal law, disclosure or
18 misuse of federal return information obtained under a disclosure
19 agreement with the Internal Revenue Service; and

20 (v) Collect, disclose, disseminate, or otherwise use
21 anonymous data for governmental purposes.

22 Sec. 8. Section 77-2712.03, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 77-2712.03 (1) The streamlined sales and use tax
25 agreement, as adopted by the streamlined sales tax implementing

1 states on November 12, 2002, including amendments through December
2 ~~14, 2006,~~ 31, 2009, is hereby ratified by the Legislature. The
3 Governor shall enter into the agreement with one or more states
4 to simplify and modernize sales and use tax administration in
5 order to substantially reduce the burden of tax compliance for
6 all sellers and for all types of commerce. In furtherance of
7 the agreement, the Department of Revenue is authorized to act
8 jointly with other states that are members under Articles VII or
9 VIII of the agreement to establish standards for certification
10 of a certified service provider and certified automated system
11 and establish performance standards for multistate sellers. The
12 department is further authorized to take other actions permissible
13 under law reasonably required to implement the provisions set forth
14 in the agreement. Other actions authorized by this section include,
15 but are not limited to, the adoption and promulgation of rules and
16 regulations and the joint procurement, with other member states, of
17 goods and services in furtherance of the agreement.

18 (2) The Tax Commissioner or his or her designee and two
19 representatives of the Legislature appointed by the Executive Board
20 of the Legislative Council are authorized to represent Nebraska
21 before the other member states under the agreement. The state
22 also agrees to participate in and comply with the procedures of
23 and decisions made by the governing board of the member states.
24 These provisions of the agreement include the creation of the
25 organization as provided in Article VII of the agreement, the

1 requirements for state entry and withdrawal as provided in Article
2 VIII of the agreement, amendments to the agreement as provided in
3 Article IX of the agreement, and a dispute resolution process as
4 provided in Article X of the agreement.

5 Sec. 9. Section 77-2789, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 77-2789 (1) In case of failure to file any income tax
8 return required under the provisions of the Nebraska Revenue Act of
9 1967 on the date prescribed therefor, determined with regard to any
10 extension of time for filing, unless it is shown that such failure
11 is the result of reasonable cause and not the result of willful
12 neglect, the Tax Commissioner may add to the amount required to be
13 shown as tax on such return, five percent of the amount of such tax
14 if the failure is for not more than one month, with an additional
15 five percent for each additional month or fraction thereof during
16 which such failure continues, not exceeding twenty-five percent
17 in the aggregate. For purposes of this section, the amount of
18 tax required to be shown on the return shall be reduced by the
19 amount of any part of the tax which is paid on or before the date
20 prescribed for payment of the tax and by the amount of any credit
21 against the tax which may be claimed upon the return.

22 (2) In case of each failure to file a statement of
23 payment to another person, including the duplicate statement of
24 tax withheld on wages, on the date prescribed therefor, determined
25 with regard to any extension of time for filing, unless it is

1 shown that such failure is the result of reasonable cause and not
2 willful neglect, the Tax Commissioner may assess a penalty against
3 the person so failing to file the statement, in the amount of
4 two dollars for each statement not so filed but the total amount
5 imposed on the delinquent person for all such failure during any
6 calendar year shall not exceed two thousand dollars.

7 (3) In case of failure to file any return for income tax
8 withheld on the date prescribed therefor, determined with regard
9 to any extension of time to file, the Tax Commissioner may add to
10 the amount required to be shown as tax on such return twenty-five
11 dollars or the amount determined under subsection (1) of this
12 section, whichever is greater.

13 (4) All determinations made by the Tax Commissioner under
14 this section are due and payable at the time they become final.
15 If they are not paid when final, a penalty of ten percent of the
16 total amount due, exclusive of interest and other penalties, shall
17 be added to the total amount due.

18 Sec. 10. Section 77-2790, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 77-2790 (1) (a) If any part of a deficiency is the result
21 of negligence or intentional disregard of rules and regulations but
22 without intent to defraud, the Tax Commissioner may add to the tax
23 an amount equal to five percent of the deficiency.

24 (b) If any part of a requested refund is overstated
25 as a result of negligence, material misstatement, or intentional

1 disregard of rules and regulations but without intent to defraud,
2 the Tax Commissioner may add to the tax an amount equal to five
3 percent of the overstatement of the refund.

4 (2)(a) If any part of a deficiency is the result of
5 fraud, the Tax Commissioner may add to the tax an amount equal to
6 fifty percent of the deficiency. This amount shall be in lieu of
7 any amount determined under subsection (1) of this section.

8 (b) If any part of a requested refund is overstated as a
9 result of fraud, the Tax Commissioner may add to the tax an amount
10 equal to fifty percent of the overstatement of the refund. This
11 amount shall be in lieu of any amount determined under subsection
12 (1) of this section.

13 (3) If any taxpayer fails to pay all or any part of an
14 installment of any tax due, he or she shall be deemed to have
15 made an underpayment of estimated tax. The Tax Commissioner shall
16 determine the amount of underpayment of estimated tax in accordance
17 with the laws of the United States.

18 (4) If any taxpayer, with intent to evade or defeat any
19 income tax imposed by the Nebraska Revenue Act of 1967 or the
20 payment thereof, claims an excessive number of exemptions or in any
21 other manner overstates the amount of withholding, he or she shall
22 be guilty of a Class II misdemeanor. If any employer or payor,
23 without intent to evade or defeat any income tax imposed by the
24 Nebraska Revenue Act of 1967 or the payment thereof, fails to make
25 a return and pay a tax withheld by him or her at the time required

1 by or under the act, such employer or payor shall be liable for
2 such taxes and shall pay the same together with interest thereon
3 and any addition to tax assessed pursuant to subsection (1) of this
4 section. Such interest and addition to tax shall not be charged to
5 or collected from the employee or payee by the employer or payor.
6 The Tax Commissioner shall have the same rights and powers for
7 the collection of such tax, interest, and addition to tax against
8 such employer or payor as are now prescribed by the act for the
9 collection of income tax against a taxpayer.

10 (5) If any person required to collect, withhold,
11 truthfully account for, and pay over the income tax imposed by
12 the Nebraska Revenue Act of 1967 willfully fails to collect or
13 withhold such tax or truthfully account for and pay over such tax
14 or willfully attempts in any manner to evade or defeat the tax or
15 the payment thereof, the Tax Commissioner may, in addition to other
16 penalties provided by law, impose, assess, and collect a penalty
17 equal to the total amount of the tax evaded, not collected, not
18 withheld, or not accounted for and paid over. No addition to tax
19 under subsection (1) or (2) of this section shall be imposed for
20 any offense to which this subsection applies.

21 (6) If any person with fraudulent intent fails to pay,
22 or to deduct or withhold and pay, any income tax, to make, render,
23 sign, or certify any return of estimated tax, or to supply any
24 information within the time required, the Tax Commissioner may
25 impose, assess, and collect a penalty of not more than one thousand

1 dollars, in addition to any other amounts required under the income
2 tax provisions of the Nebraska Revenue Act of 1967.

3 (7) If any person for frivolous or groundless reasons
4 or with the intent to delay or impede the administration of the
5 Nebraska Revenue Act of 1967 (a) fails to pay over any tax due
6 and owing under such act, (b) fails to file any return required
7 under such act, or (c) files what purports to be a return but which
8 does not contain sufficient information from which to determine
9 the correctness of the self-assessment of tax or which contains
10 information that indicates that the self-assessment of tax is
11 substantially incorrect, such person shall pay a penalty of five
12 hundred dollars for each occurrence. The penalty provided by this
13 subsection shall be in addition to any other penalties provided by
14 law.

15 (8) Any person who aids, procures, advises, or assists
16 in the preparation of any return, affidavit, refund claim, or
17 other document with the knowledge that its use will result in the
18 material understatement of the tax liability of another person or
19 the material overstatement of the amount of a refund of another
20 person shall, in addition to other penalties provided by law, pay
21 a penalty of one thousand dollars with respect to each separate
22 return or other document.

23 (a) For the purposes of this subsection, a person
24 furnishing typing, reproducing, or other mechanical assistance
25 shall not be treated as having aided or assisted in the preparation

1 of such document.

2 (b) A determination of a material deficiency shall not
3 be sufficient to show that a person has aided or assisted in a
4 material understatement of the tax liability of another person.

5 (c) The penalty in this subsection shall not be imposed
6 more than once on any person for having aided or assisted in the
7 preparation of documents for the same taxpayer, the same tax, and
8 the same tax period regardless of the number of documents involved.

9 (d) Such penalty shall apply whether or not the
10 understatement is with the consent of the person authorized to
11 present the return, affidavit, refund claim, or other document.

12 (9) The additions to the income tax and penalties
13 relating thereto provided by the Nebraska Revenue Act of 1967
14 shall be paid upon notice and demand and shall be assessed,
15 collected, and paid in the same manner as taxes, and any reference
16 in such act to income tax or the tax imposed by the act shall be
17 deemed also to refer to additions to the tax and penalties provided
18 by this section. For purposes of the deficiency procedures provided
19 in section 77-2776, this subsection shall not apply to:

20 (a) Any addition to tax under subsection (1) or (4)
21 of section 77-2789 except as to that portion attributable to a
22 deficiency;

23 (b) Any addition to tax for underpayment of estimated tax
24 as provided in subsection (3) of this section; or

25 (c) Any additional penalty under subsection (6), (7), or

1 (8) of this section.

2 (10) For purposes of subsections (1) and (2) of this
3 section relating to deficiencies resulting from negligence or
4 fraud, the amount shown as the tax by the taxpayer upon his or her
5 return shall be taken into account in determining the amount of the
6 deficiency only if such return was filed on or before the last day
7 prescribed for the filing of such return determined with regard to
8 any extension of time for such filing.

9 (11) For purposes of subsections (5) and (6) of this
10 section, the term person shall include an individual, corporation,
11 partnership, or limited liability company, or an officer or
12 employee of any corporation, including a dissolved corporation,
13 or a member or employee of any partnership or limited liability
14 company, who as such officer, employee, or member is under a duty
15 to perform the act in respect of which the violation occurs.

16 (12) If any person fails to comply with the reporting or
17 filing requirements of sections 77-2772, 77-2775, and 77-2786 or
18 the rules and regulations adopted and promulgated thereunder, the
19 Tax Commissioner may impose, assess, and collect a penalty against
20 such person for each instance of noncompliance of twenty-five
21 percent of the tax due. Such amount shall be in addition to any
22 other penalty, tax, or interest otherwise imposed by law for such
23 noncompliance.

24 (13) If any nonresident individual provides false
25 information or statements to an employer or payor regarding the

1 portion of his or her wages or payments that are subject to
2 withholding for this state which if used would result in the
3 amount withheld being less than seventy-five percent of his or
4 her income tax liability on such wages or payments or if any
5 employer or payor uses such information when the employer or payor
6 knows such information is false or maintains records which show
7 such information is false, the Tax Commissioner may, in addition
8 to other penalties provided by law, impose, assess, and collect
9 from such individual, payor, or employer the penalties provided in
10 subsections (5) and (6) of this section.

11 (14) If any employer or payor employing twenty-five or
12 more employees who is required to withhold and pay over income
13 tax imposed by the Nebraska Revenue Act of 1967 fails to either
14 (a) withhold at least one and one-half percent of the wages of
15 any employee or (b) obtain satisfactory evidence from the employee
16 justifying a lower withholding amount as required by subdivision
17 (1)(b) of section 77-2753, the Tax Commissioner may impose, assess,
18 and collect a penalty of not more than one thousand dollars per
19 violation.

20 Sec. 11. Section 77-2796, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 77-2796 If the Tax Commissioner disallows a claim for
23 refund, he or she shall notify the taxpayer accordingly. The action
24 of the Tax Commissioner denying a claim for refund is final upon
25 the expiration of ~~sixty~~ thirty days after the date when he or she

1 mails notice of his or her action to the taxpayer unless within
2 this period the taxpayer seeks review of the Tax Commissioner's
3 determination as hereinafter provided.

4 Sec. 12. Section 77-27,100, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 77-27,100 The action authorized in section 77-2798 shall
7 be filed within three years from the last date prescribed for
8 filing the return or within one year from the date the tax was
9 paid, or within ~~sixty~~ thirty days after the denial of a claim for
10 refund by the Tax Commissioner.

11 Sec. 13. Section 77-27,119, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 77-27,119 (1) The Tax Commissioner shall administer and
14 enforce the income tax imposed by sections 77-2714 to 77-27,135,
15 and he or she is authorized to conduct hearings, to adopt and
16 promulgate such rules and regulations, and to require such facts
17 and information to be reported as he or she may deem necessary to
18 enforce the income tax provisions of such sections, except that
19 such rules, regulations, and reports shall not be inconsistent with
20 the laws of this state or the laws of the United States. The Tax
21 Commissioner may for enforcement and administrative purposes divide
22 the state into a reasonable number of districts in which branch
23 offices may be maintained.

24 (2) (a) The Tax Commissioner may prescribe the form and
25 contents of any return or other document required to be filed under

1 the income tax provisions. Such return or other document shall
2 be compatible as to form and content with the return or document
3 required by the laws of the United States. The form shall have a
4 place where the taxpayer shall designate the high school district
5 in which he or she lives and the county in which the high school
6 district is headquartered. The Tax Commissioner shall adopt and
7 promulgate such rules and regulations as may be necessary to insure
8 compliance with this requirement.

9 (b) The State Department of Education, with the
10 assistance and cooperation of the Department of Revenue, shall
11 develop a uniform system for numbering all school districts in the
12 state. Such system shall be consistent with the data processing
13 needs of the Department of Revenue and shall be used for the
14 school district identification required by subdivision (a) of this
15 subsection.

16 (c) The proper filing of an income tax return shall
17 consist of the submission of such form as prescribed by the
18 Tax Commissioner or an exact facsimile thereof with sufficient
19 information provided by the taxpayer on the face of the form from
20 which to compute the actual tax liability. Each taxpayer shall
21 include such taxpayer's correct social security number or state
22 identification number and the school district identification number
23 of the school district in which the taxpayer resides on the face of
24 the form. A filing is deemed to occur when the required information
25 is provided.

1 (3) The Tax Commissioner, for the purpose of ascertaining
2 the correctness of any return or other document required to
3 be filed under the income tax provisions, for the purpose of
4 determining corporate income, individual income, and withholding
5 tax due, or for the purpose of making an estimate of taxable income
6 of any person, shall have the power to examine or to cause to have
7 examined, by any agent or representative designated by him or her
8 for that purpose, any books, papers, records, or memoranda bearing
9 upon such matters and may by summons require the attendance of
10 the person responsible for rendering such return or other document
11 or remitting any tax, or any officer or employee of such person,
12 or the attendance of any other person having knowledge in the
13 premises, and may take testimony and require proof material for his
14 or her information, with power to administer oaths or affirmations
15 to such person or persons.

16 (4) The time and place of examination pursuant to this
17 section shall be such time and place as may be fixed by the Tax
18 Commissioner and as are reasonable under the circumstances. In the
19 case of a summons, the date fixed for appearance before the Tax
20 Commissioner shall not be less than twenty days from the time of
21 service of the summons.

22 (5) No taxpayer shall be subjected to unreasonable or
23 unnecessary examinations or investigations.

24 (6) Except in accordance with proper judicial order or
25 as otherwise provided by law, it shall be unlawful for the Tax

1 Commissioner, any officer or employee of the Tax Commissioner,
2 any person engaged or retained by the Tax Commissioner on an
3 independent contract basis, any person who pursuant to this section
4 is permitted to inspect any report or return or to whom a copy, an
5 abstract, or a portion of any report or return is furnished, any
6 employee of the State Treasurer or the Department of Administrative
7 Services, or any other person to divulge, make known, or use in
8 any manner the amount of income or any particulars set forth or
9 disclosed in any report or return required except for the purpose
10 of enforcing sections 77-2714 to 77-27,135. The officers charged
11 with the custody of such reports and returns shall not be required
12 to produce any of them or evidence of anything contained in them
13 in any action or proceeding in any court, except on behalf of the
14 Tax Commissioner in an action or proceeding under the provisions
15 of the tax law to which he or she is a party or on behalf of
16 any party to any action or proceeding under such sections when the
17 reports or facts shown thereby are directly involved in such action
18 or proceeding, in either of which events the court may require the
19 production of, and may admit in evidence, so much of such reports
20 or of the facts shown thereby as are pertinent to the action or
21 proceeding and no more. Nothing in this section shall be construed
22 (a) to prohibit the delivery to a taxpayer, his or her duly
23 authorized representative, or his or her successors, receivers,
24 trustees, personal representatives, administrators, assignees, or
25 guarantors, if directly interested, of a certified copy of any

1 return or report in connection with his or her tax, (b) to
2 prohibit the publication of statistics so classified as to prevent
3 the identification of particular reports or returns and the items
4 thereof, (c) to prohibit the inspection by the Attorney General,
5 other legal representatives of the state, or a county attorney of
6 the report or return of any taxpayer who brings an action to review
7 the tax based thereon, against whom an action or proceeding for
8 collection of tax has been instituted, or against whom an action,
9 proceeding, or prosecution for failure to comply with the Nebraska
10 Revenue Act of 1967 is being considered or has been commenced, (d)
11 to prohibit furnishing to the Nebraska Workers' Compensation Court
12 the names, addresses, and identification numbers of employers,
13 and such information shall be furnished on request of the court,
14 (e) to prohibit the disclosure of information and records to a
15 collection agency contracting with the Tax Commissioner pursuant to
16 sections 77-377.01 to 77-377.04, (f) to prohibit the disclosure of
17 information pursuant to section 77-27,195, 77-4110, or 77-5731, (g)
18 to prohibit the disclosure to the Public Employees Retirement Board
19 of the addresses of individuals who are members of the retirement
20 systems administered by the board, and such information shall be
21 furnished to the board solely for purposes of its administration
22 of the retirement systems upon written request, which request shall
23 include the name and social security number of each individual
24 for whom an address is requested, (h) to prohibit the disclosure
25 of information to the Department of Labor necessary for the

1 administration of the Employment Security Law or the Contractor
2 Registration Act, to prohibit the disclosure to the Department
3 of Labor of tax return information pertaining to individuals,
4 corporations, and businesses determined by the Department of Labor
5 to be delinquent in the payment of combined tax or in the repayment
6 of benefit overpayments, and such disclosure shall be strictly
7 limited to information necessary for the administration of the
8 Employment Security Law, (i) to prohibit the disclosure to the
9 Department of Motor Vehicles of tax return information pertaining
10 to individuals, corporations, and businesses determined by the
11 Department of Motor Vehicles to be delinquent in the payment of
12 amounts due under agreements pursuant to the International Fuel
13 Tax Agreement Act, and such disclosure shall be strictly limited
14 to information necessary for the administration of the act, or (j)
15 to prohibit the disclosure under section 42-358.08, 43-512.06, or
16 43-3327 to any court-appointed individuals, the county attorney,
17 any authorized attorney, or the Department of Health and Human
18 Services of an absent parent's address, social security number,
19 amount of income, health insurance information, and employer's
20 name and address for the exclusive purpose of establishing and
21 collecting child, spousal, or medical support. Information so
22 obtained shall be used for no other purpose. Any person who
23 violates this subsection shall be guilty of a felony and shall upon
24 conviction thereof be fined not less than one hundred dollars nor
25 more than five hundred dollars, or be imprisoned not more than five

1 years, or be both so fined and imprisoned, in the discretion of
2 the court and shall be assessed the costs of prosecution. If the
3 offender is an officer or employee of the state, he or she shall be
4 dismissed from office and be ineligible to hold any public office
5 in this state for a period of two years thereafter.

6 (7) Reports and returns required to be filed under income
7 tax provisions of sections 77-2714 to 77-27,135 shall be preserved
8 until the Tax Commissioner orders them to be destroyed.

9 (8) Notwithstanding the provisions of subsection (6) of
10 this section, the Tax Commissioner may permit the Secretary of the
11 Treasury of the United States or his or her delegates or the proper
12 officer of any state imposing an income tax, or the authorized
13 representative of either such officer, to inspect the income tax
14 returns of any taxpayer or may furnish to such officer or his or
15 her authorized representative an abstract of the return of income
16 of any taxpayer or supply him or her with information concerning an
17 item of income contained in any return or disclosed by the report
18 of any investigation of the income or return of income of any
19 taxpayer, but such permission shall be granted only if the statutes
20 of the United States or of such other state, as the case may be,
21 grant substantially similar privileges to the Tax Commissioner of
22 this state as the officer charged with the administration of the
23 income tax imposed by sections 77-2714 to 77-27,135.

24 (9) Notwithstanding the provisions of subsection (6) of
25 this section, the Tax Commissioner may permit the Postal Inspector

1 of the United States Postal Service or his or her delegates to
2 inspect the reports or returns of any person filed pursuant to the
3 Nebraska Revenue Act of 1967 when information on the reports or
4 returns is relevant to any action or proceeding instituted or being
5 considered by the United States Postal Service against such person
6 for the fraudulent use of the mails to carry and deliver false and
7 fraudulent tax returns to the Tax Commissioner with the intent to
8 defraud the State of Nebraska or to evade the payment of Nebraska
9 state taxes.

10 (10) (a) Notwithstanding the provisions of subsection (6)
11 of this section, the Tax Commissioner shall, upon written request
12 by the Auditor of Public Accounts or the Legislative Performance
13 Audit Committee, make tax returns and tax return information
14 open to inspection by or disclosure to officers and employees
15 of the Auditor of Public Accounts or Legislative Performance
16 Audit Section employees for the purpose of and to the extent
17 necessary in making an audit of the Department of Revenue pursuant
18 to section 50-1205 or 84-304. The Auditor of Public Accounts
19 or Legislative Performance Audit Section shall statistically and
20 randomly select the tax returns and tax return information to
21 be audited based upon a computer tape provided by the Department
22 of Revenue which contains only total population documents without
23 specific identification of taxpayers. The Tax Commissioner shall
24 have the authority to approve the statistical sampling method used
25 by the Auditor of Public Accounts or Legislative Performance Audit

1 Section. Confidential tax returns and tax return information shall
2 be audited only upon the premises of the Department of Revenue.
3 All audit workpapers pertaining to the audit of the Department of
4 Revenue shall be stored in a secure place in the Department of
5 Revenue.

6 (b) No officer or employee of the Auditor of Public
7 Accounts or Legislative Performance Audit Section employee shall
8 disclose to any person, other than another officer or employee of
9 the Auditor of Public Accounts or Legislative Performance Audit
10 Section employee whose official duties require such disclosure or
11 as provided in subsections (2) and (3) of section 50-1213, any
12 return or return information described in the Nebraska Revenue
13 Act of 1967 in a form which can be associated with or otherwise
14 identify, directly or indirectly, a particular taxpayer.

15 (c) Any person who violates the provisions of this
16 subsection shall be guilty of a Class IV felony and, in the
17 discretion of the court, may be assessed the costs of prosecution.
18 The guilty officer or employee shall be dismissed from employment
19 and be ineligible to hold any position of employment with the State
20 of Nebraska for a period of two years thereafter. For purposes of
21 this subsection, officer or employee shall include a former officer
22 or employee of the Auditor of Public Accounts or former Legislative
23 Performance Audit Section employee.

24 (11) For purposes of subsections (10) through (13) of
25 this section:

1 (a) Tax returns shall mean any tax or information return
2 or claim for refund required by, provided for, or permitted
3 under sections 77-2714 to 77-27,135 which is filed with the Tax
4 Commissioner by, on behalf of, or with respect to any person
5 and any amendment or supplement thereto, including supporting
6 schedules, attachments, or lists which are supplemental to or part
7 of the filed return;

8 (b) Return information shall mean:

9 (i) A taxpayer's identification number and (A) the
10 nature, source, or amount of his or her income, payments, receipts,
11 deductions, exemptions, credits, assets, liabilities, net worth,
12 tax liability, tax withheld, deficiencies, overassessments, or tax
13 payments, whether the taxpayer's return was, is being, or will be
14 examined or subject to other investigation or processing or (B) any
15 other data received by, recorded by, prepared by, furnished to, or
16 collected by the Tax Commissioner with respect to a return or the
17 determination of the existence or possible existence of liability
18 or the amount of liability of any person for any tax, penalty,
19 interest, fine, forfeiture, or other imposition or offense; and

20 (ii) Any part of any written determination or any
21 background file document relating to such written determination;
22 and

23 (c) Disclosures shall mean the making known to any person
24 in any manner a return or return information.

25 (12) The Auditor of Public Accounts or the Legislative

1 Auditor of the Legislative Performance Audit Section shall (a)
2 notify the Tax Commissioner in writing thirty days prior to the
3 beginning of an audit of his or her intent to conduct an audit, (b)
4 provide an audit plan, and (c) provide a list of the tax returns
5 and tax return information identified for inspection during the
6 audit.

7 (13) The Auditor of Public Accounts or the Legislative
8 Performance Audit Section shall, as a condition for receiving tax
9 returns and tax return information: (a) Subject employees involved
10 in the audit to the same confidential information safeguards
11 and disclosure procedures as required of Department of Revenue
12 employees; (b) establish and maintain a permanent system of
13 standardized records with respect to any request for tax returns
14 or tax return information, the reason for such request, and the
15 date of such request and any disclosure of the tax return or
16 tax return information; (c) establish and maintain a secure area
17 or place in the Department of Revenue in which the tax returns,
18 tax return information, or audit workpapers shall be stored; (d)
19 restrict access to the tax returns or tax return information only
20 to persons whose duties or responsibilities require access; (e)
21 provide such other safeguards as the Tax Commissioner determines
22 to be necessary or appropriate to protect the confidentiality of
23 the tax returns or tax return information; (f) provide a report
24 to the Tax Commissioner which describes the procedures established
25 and utilized by the Auditor of Public Accounts or Legislative

1 Performance Audit Section for insuring the confidentiality of tax
2 returns, tax return information, and audit workpapers; and (g) upon
3 completion of use of such returns or tax return information, return
4 to the Tax Commissioner such returns or tax return information,
5 along with any copies.

6 (14) The Tax Commissioner may permit other tax officials
7 of this state to inspect the tax returns and reports filed
8 under sections 77-2714 to 77-27,135, but such inspection shall be
9 permitted only for purposes of enforcing a tax law and only to
10 the extent and under the conditions prescribed by the rules and
11 regulations of the Tax Commissioner.

12 (15) The Tax Commissioner shall compile the school
13 district information required by subsection (2) of this section.
14 Insofar as it is possible, such compilation shall include, but
15 not be limited to, the total adjusted gross income of each school
16 district in the state. The Tax Commissioner shall adopt and
17 promulgate such rules and regulations as may be necessary to insure
18 that such compilation does not violate the confidentiality of any
19 individual income tax return nor conflict with any other provisions
20 of state or federal law.

21 Sec. 14. Section 77-5725, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 77-5725 (1) Applicants may qualify for benefits under the
24 Nebraska Advantage Act in one of six tiers:

25 (a) Tier 1, investment in qualified property of at least

1 one million dollars and the hiring of at least ten new employees.
2 There shall be no new project applications for benefits under this
3 tier filed after December 31, 2015, without further authorization
4 of the Legislature. All complete project applications filed on
5 or before December 31, 2015, shall be considered by the Tax
6 Commissioner and approved if the project and taxpayer qualify
7 for benefits. Agreements may be executed with regard to completed
8 project applications filed on or before December 31, 2015. All
9 project agreements pending, approved, or entered into before such
10 date shall continue in full force and effect;

11 (b) Tier 2, investment in qualified property of at least
12 three million dollars and the hiring of at least thirty new
13 employees;

14 (c) Tier 3, the hiring of at least thirty new employees.
15 There shall be no new project applications for benefits under this
16 tier filed after December 31, 2015, without further authorization
17 of the Legislature. All complete project applications filed on
18 or before December 31, 2015, shall be considered by the Tax
19 Commissioner and approved if the project and taxpayer qualify
20 for benefits. Agreements may be executed with regard to completed
21 project applications filed on or before December 31, 2015. All
22 project agreements pending, approved, or entered into before such
23 date shall continue in full force and effect;

24 (d) Tier 4, investment in qualified property of at least
25 ten million dollars and the hiring of at least one hundred new

1 employees;

2 (e) Tier 5, investment in qualified property of at least
3 thirty million dollars. Failure to maintain an average number of
4 equivalent employees as defined in section 77-5727 greater than or
5 equal to the number of equivalent employees in the base year shall
6 result in a partial recapture of benefits; and

7 (f) Tier 6, investment in qualified property of at least
8 ten million dollars and the hiring of at least seventy-five new
9 employees or the investment in qualified property of at least
10 one hundred million dollars and the hiring of at least fifty new
11 employees. Agreements may be executed with regard to completed
12 project applications filed before January 1, 2016. All project
13 agreements pending, approved, or entered into before such date
14 shall continue in full force and effect.

15 (2) When the taxpayer has met the required levels of
16 employment and investment contained in the agreement for a tier 1,
17 tier 2, tier 4, tier 5, or tier 6 project, the taxpayer shall be
18 entitled to the following incentives:

19 (a) A refund of all sales and use taxes for a tier 2,
20 tier 4, tier 5, or tier 6 project or a refund of one-half of all
21 sales and use taxes for a tier 1 project paid under the Local
22 Option Revenue Act, the Nebraska Revenue Act of 1967, and sections
23 13-319, 13-324, and 13-2813 from the date of the application
24 through the meeting of the required levels of employment and
25 investment for all purchases, including rentals, of:

1 (i) Qualified property used as a part of the project;

2 (ii) Property, excluding motor vehicles, based in this
3 state and used in both this state and another state in connection
4 with the project except when any such property is to be used for
5 fundraising for or for the transportation of an elected official;

6 (iii) Tangible personal property by a contractor or
7 repairperson after appointment as a purchasing agent of the owner
8 of the improvement to real estate that when such property is
9 incorporated into real estate as a part of a project. The refund
10 shall be based on fifty percent of the contract price, excluding
11 any land, as the cost of materials subject to the sales and use
12 tax; and

13 (iv) Tangible personal property by a contractor or
14 repairperson after appointment as a purchasing agent of the owner
15 of the improvement to real estate. taxpayer when such property is
16 annexed to real estate as a part of a project. The refund shall be
17 based on fifty percent of the contract price, excluding any land,
18 as the cost of materials subject to the sales and use tax that were
19 annexed to real estate; and

20 (v) Tangible personal property by a contractor or
21 repairperson after appointment as a purchasing agent of the
22 taxpayer when such property is both incorporated into and annexed
23 to real estate as a part of a project. The refund shall be based
24 on fifty percent of the contract price, excluding any land, as the
25 cost of materials subject to the sales and use tax; and

1 (b) A refund of all sales and use taxes for a tier 2,
2 tier 4, tier 5, or tier 6 project or a refund of one-half of all
3 sales and use taxes for a tier 1 project paid under the Local
4 Option Revenue Act, the Nebraska Revenue Act of 1967, and sections
5 13-319, 13-324, and 13-2813 on the types of purchases, including
6 rentals, listed in subdivision (a) of this subsection for such
7 taxes paid during each year of the entitlement period in which
8 the taxpayer is at or above the required levels of employment and
9 investment.

10 (3) Any taxpayer who qualifies for a tier 1, tier 2,
11 tier 3, or tier 4 project shall be entitled to a credit equal to
12 three percent times the average wage of new employees times the
13 number of new employees if the average wage of the new employees
14 equals at least sixty percent of the Nebraska average annual wage
15 for the year of application. The credit shall equal four percent
16 times the average wage of new employees times the number of new
17 employees if the average wage of the new employees equals at least
18 seventy-five percent of the Nebraska average annual wage for the
19 year of application. The credit shall equal five percent times the
20 average wage of new employees times the number of new employees
21 if the average wage of the new employees equals at least one
22 hundred percent of the Nebraska average annual wage for the year of
23 application. The credit shall equal six percent times the average
24 wage of new employees times the number of new employees if the
25 average wage of the new employees equals at least one hundred

1 twenty-five percent of the Nebraska average annual wage for the
2 year of application. For computation of such credit:

3 (a) Average annual wage means the total compensation paid
4 to employees during the year at the project who are not base-year
5 employees and who are paid wages equal to at least sixty percent
6 of the Nebraska average weekly wage for the year of application,
7 excluding any compensation in excess of one million dollars paid
8 to any one employee during the year, divided by the number of
9 equivalent employees making up such total compensation;

10 (b) Average wage of new employees means the average
11 annual wage paid to employees during the year at the project who
12 are not base-year employees and who are paid wages equal to at
13 least sixty percent of the Nebraska average weekly wage for the
14 year of application, excluding any compensation in excess of one
15 million dollars paid to any one employee during the year; and

16 (c) Nebraska average annual wage means the Nebraska
17 average weekly wage times fifty-two.

18 (4) Any taxpayer who qualifies for a tier 6 project shall
19 be entitled to a credit equal to ten percent times the total
20 compensation paid to all employees, other than base-year employees,
21 excluding any compensation in excess of one million dollars paid to
22 any one employee during the year, employed at the project.

23 (5) Any taxpayer who has met the required levels of
24 employment and investment for a tier 2 or tier 4 project shall
25 receive a credit equal to ten percent of the investment made in

1 qualified property at the project. Any taxpayer who has met the
2 required levels of investment and employment for a tier 1 project
3 shall receive a credit equal to three percent of the investment
4 made in qualified property at the project. Any taxpayer who has
5 met the required levels of investment and employment for a tier
6 6 project shall receive a credit equal to fifteen percent of the
7 investment made in qualified property at the project.

8 (6) The credits prescribed in subsections (3), (4), and
9 (5) of this section shall be allowable for compensation paid and
10 investments made during each year of the entitlement period that
11 the taxpayer is at or above the required levels of employment and
12 investment.

13 (7) The credit prescribed in subsection (5) of this
14 section shall also be allowable during the first year of the
15 entitlement period for investment in qualified property at the
16 project after the date of the application and before the required
17 levels of employment and investment were met.

18 (8)(a) A taxpayer who has met the required levels of
19 employment and investment for a tier 4 or tier 6 project shall
20 receive the incentive provided in this subsection. A taxpayer who
21 has a project for an Internet web portal and who has met the
22 required level of investment for a tier 5 project shall receive the
23 incentive provided in this subsection for property in subdivision
24 (8)(b)(ii) of this section. Such investment and hiring of new
25 employees shall be considered a required level of investment and

1 employment for this subsection and for the recapture of benefits
2 under this subsection only.

3 (b) The following property used in connection with such
4 project or projects and acquired by the taxpayer, whether by
5 lease or purchase, after the date the application was filed shall
6 constitute separate classes of personal property:

7 (i) Turbine-powered aircraft, including turboprop,
8 turbojet, and turbofan aircraft, except when any such aircraft is
9 used for fundraising for or for the transportation of an elected
10 official;

11 (ii) Computer systems, made up of equipment that is
12 interconnected in order to enable the acquisition, storage,
13 manipulation, management, movement, control, display, transmission,
14 or reception of data involving computer software and hardware, used
15 for business information processing which require environmental
16 controls of temperature and power and which are capable of
17 simultaneously supporting more than one transaction and more than
18 one user. A computer system includes peripheral components which
19 require environmental controls of temperature and power connected
20 to such computer systems. Peripheral components shall be limited to
21 additional memory units, tape drives, disk drives, power supplies,
22 cooling units, data switches, and communication controllers;

23 (iii) Depreciable personal property used for a
24 distribution facility, including, but not limited to, storage
25 racks, conveyor mechanisms, forklifts, and other property used to

1 store or move products;

2 (iv) Personal property which is business equipment
3 located in a single project if the business equipment is involved
4 directly in the manufacture or processing of agricultural products;
5 and

6 (v) For a tier 6 project, any other personal property
7 located at the project.

8 (c) Such property shall be eligible for exemption from
9 the tax on personal property from the first January 1 following
10 the date of acquisition for property in subdivision (8)(b)(i)
11 of this section, or from the first January 1 following the end
12 of the year during which the required levels were exceeded for
13 property in subdivisions (8)(b)(ii), (iii), (iv), and (v) of this
14 section, through the ninth December 31 after the first year any
15 property included in subdivisions (8)(b)(ii), (iii), (iv), and (v)
16 of this section qualifies for the exemption. In order to receive
17 the property tax exemptions allowed by subdivision (8)(b) of this
18 section, the taxpayer shall annually file a claim for exemption
19 with the Tax Commissioner on or before May 1. The form and
20 supporting schedules shall be prescribed by the Tax Commissioner
21 and shall list all property for which exemption is being sought
22 under this section. A separate claim for exemption must be filed
23 for each project and each county in which property is claimed
24 to be exempt. A copy of this form must also be filed with the
25 county assessor in each county in which the applicant is requesting

1 exemption. The Tax Commissioner shall determine the eligibility
2 of each item listed for exemption and, on or before August 1,
3 certify such to the taxpayer and to the affected county assessor.
4 In determining the eligibility of items of personal property for
5 exemption, the Tax Commissioner is limited to the question of
6 whether the property claimed as exempt by the taxpayer falls
7 within the classes of property described in subdivision (8)(b) of
8 this section. The determination of whether a taxpayer is eligible
9 to obtain exemption for personal property based on meeting the
10 required levels of investment and employment is the responsibility
11 of the Tax Commissioner.

12 (9)(a) The investment thresholds in this section for a
13 particular year of application shall be adjusted by the method
14 provided in this subsection.

15 (b) For tier 1, tier 2, tier 4, and tier 5, beginning
16 October 1, 2006, and each October 1 thereafter, the average
17 Producer Price Index for all commodities, published by the United
18 States Department of Labor, Bureau of Labor Statistics, for the
19 most recent twelve available periods shall be divided by the
20 Producer Price Index for the first quarter of 2006 and the result
21 multiplied by the applicable investment threshold. The investment
22 thresholds shall be adjusted for cumulative inflation since 2006.

23 (c) For tier 6, beginning October 1, 2008, and each
24 October 1 thereafter, the average Producer Price Index for all
25 commodities, published by the United States Department of Labor,

1 Bureau of Labor Statistics, for the most recent twelve available
2 periods shall be divided by the Producer Price Index for the
3 first quarter of 2008 and the result multiplied by the applicable
4 investment threshold. The investment thresholds shall be adjusted
5 for cumulative inflation since 2008.

6 (d) If the resulting amount is not a multiple of one
7 million dollars, the amount shall be rounded to the next lowest one
8 million dollars.

9 (e) The investment thresholds established by this
10 subsection apply for purposes of project qualifications for all
11 applications filed on or after January 1 of the following year for
12 all years of the project. Adjustments do not apply to projects
13 after the year of application.

14 Sec. 15. Section 77-5726, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 77-5726 (1) (a) The credits prescribed in section 77-5725
17 shall be established by filing the forms required by the Tax
18 Commissioner with the income tax return for the year. The credits
19 may be used and shall be applied in the order in which they
20 were first allowed. The credits may be used after any other
21 nonrefundable credits to reduce the taxpayer's income tax liability
22 imposed by sections 77-2714 to 77-27,135. Any decision on how part
23 of the credit is applied shall not limit how the remaining credit
24 could be applied under this section.

25 (b) The taxpayer may use the credit provided in

1 subsection (3) of section 77-5725 to reduce the taxpayer's income
2 tax withholding employer or payor tax liability under section
3 77-2756 or 77-2757 to the extent such liability is attributable
4 to the number of new employees at the project, excluding any
5 compensation in excess of one million dollars paid to any one
6 employee during the year. The taxpayer may use the credit provided
7 in subsection (4) of section 77-5725 to reduce the taxpayer's
8 income tax withholding employer or payor tax liability under
9 section 77-2756 or 77-2757 to the extent such liability is
10 attributable to all employees employed at the project, other than
11 base-year employees and excluding any compensation in excess of one
12 million dollars paid to any one employee during the year. To the
13 extent of the credit used, such withholding shall not constitute
14 public funds or state tax revenue and shall not constitute a trust
15 fund or be owned by the state. The use by the taxpayer of the
16 credit shall not change the amount that otherwise would be reported
17 by the taxpayer to the employee under section 77-2754 as income tax
18 withheld and shall not reduce the amount that otherwise would be
19 allowed by the state as a refundable credit on an employee's income
20 tax return as income tax withheld under section 77-2755.

21 For a tier 1, tier 2, tier 3, or tier 4 project, the
22 amount of credits used against income tax withholding shall not
23 exceed the withholding attributable to new employees employed at
24 the project, excluding any compensation in excess of one million
25 dollars paid to any one employee during the year.

1 For a tier 6 project, the amount of credits used
2 against income tax withholding shall not exceed the withholding
3 attributable to all employees employed at the project, other than
4 base-year employees and excluding any compensation in excess of one
5 million dollars paid to any one employee during the year.

6 If the amount of credit used by the taxpayer against
7 income tax withholding exceeds this amount, the excess withholding
8 shall be returned to the Department of Revenue in the manner
9 provided in section 77-2756, such excess amount returned shall be
10 considered unused, and the amount of unused credits may be used
11 as otherwise permitted in this section or shall carry over to the
12 extent authorized in subdivision ~~(1)(d)~~ (1)(e) of this section.

13 (c) Credits may be used to obtain a refund of sales and
14 use taxes under the Local Option Revenue Act, the Nebraska Revenue
15 Act of 1967, and sections 13-319, 13-324, and 13-2813 which are not
16 otherwise refundable that are paid on purchases, including rentals,
17 for use at the project for a tier 1, tier 2, tier 3, or tier 4
18 project or for use within this state for a tier 6 project.

19 (d) The credits earned for a tier 6 project may be used
20 to obtain a payment from the state equal to the real property
21 taxes due after the year the required levels of employment and
22 investment were met and before the end of the carryover period,
23 for real property that is included in such project and acquired
24 by the taxpayer, whether by lease or purchase, after the date the
25 application was filed. The payment from the state shall be made

1 only after payment of the real property taxes have been made to the
 2 county as required by law. Payments shall not be allowed for any
 3 taxes paid on real property for which the taxes are divided under
 4 section 18-2147 or 58-507.

5 (e) Credits may be carried over until fully utilized,
 6 except that such credits may not be carried over more than nine
 7 years after the year of application for a tier 1 or tier 3 project,
 8 fourteen years after the year of application for a tier 2 or tier
 9 4 project, or more than one year past the end of the entitlement
 10 period for a tier 6 project.

11 (2)(a) No refund claims shall be filed until after the
 12 required levels of employment and investment have been met.

13 (b) Refund claims shall be filed no more than once each
 14 quarter for refunds under the Nebraska Advantage Act, except that
 15 any claim for a refund in excess of twenty-five thousand dollars
 16 may be filed at any time.

17 (c) ~~Any refund claim for sales and use taxes on materials~~
 18 ~~incorporated into real estate as a part of the project shall be~~
 19 ~~filed by and the refund paid to the owner of the improvement~~
 20 ~~to real estate. A refund claim Refund claims for such materials~~
 21 purchased by a purchasing agent shall include: a

22 (i) A copy of the purchasing agent appointment; ~~the~~

23 (ii) The contract price; ~~and~~

24 (iii) (A) For refunds under subdivision (2)(a)(iii) or
 25 (2)(a)(v) of section 77-5725, a certification by the contractor or

1 repairperson of the percentage of the materials incorporated into
2 or annexed to the project on which sales and use taxes were paid to
3 Nebraska after appointment as purchasing agent; or-

4 (B) For refunds under subdivision (2)(a)(iv) of section
5 77-5725, a certification by the contractor or repairperson of
6 the percentage of the contract price that represents the cost
7 of materials annexed to the project and the percentage of the
8 materials annexed to the project on which sales and use taxes were
9 paid to Nebraska after appointment as purchasing agent.

10 (d) All refund claims shall be filed, processed, and
11 allowed as any other claim under section 77-2708, except that
12 the amounts allowed to be refunded under the Nebraska Advantage
13 Act shall be deemed to be overpayments and shall be refunded
14 notwithstanding any limitation in subdivision (2)(a) of section
15 77-2708. The refund may be allowed if the claim is filed within
16 three calendar years from the end of the year the required levels
17 of employment and investment are met or within the period set forth
18 in section 77-2708.

19 (e) If a claim for a refund of sales and use taxes
20 under the Local Option Revenue Act or sections 13-319, 13-324, and
21 13-2813 of more than twenty-five thousand dollars is filed by June
22 15 of a given year, the refund shall be made on or after November
23 15 of the same year. If such a claim is filed on or after June
24 16 of a given year, the refund shall not be made until on or
25 after November 15 of the following year. The Tax Commissioner shall

1 notify the affected city, village, county, or municipal county of
2 the amount of refund claims of sales and use taxes under the Local
3 Option Revenue Act or sections 13-319, 13-324, and 13-2813 that are
4 in excess of twenty-five thousand dollars on or before July 1 of
5 the year before the claims will be paid under this section.

6 (f) Interest shall not be allowed on any taxes refunded
7 under the Nebraska Advantage Act.

8 (3) The appointment of purchasing agents shall be
9 recognized for the purpose of changing the status of a contractor
10 or repairperson as the ultimate consumer of tangible personal
11 property purchased after the date of the appointment which is
12 physically incorporated into or annexed to the project and becomes
13 the property of the owner of the improvement to real estate or
14 the taxpayer. The purchasing agent shall be jointly liable for the
15 payment of the sales and use tax on the purchases with the owner
16 of the ~~improvement to real estate~~ property.

17 (4) A determination that a taxpayer is not engaged in a
18 qualified business or has failed to meet or maintain the required
19 levels of employment or investment for incentives, exemptions, or
20 recapture may be protested within sixty days after the mailing of
21 the written notice of the proposed determination. If the notice
22 of proposed determination is not protested within the sixty-day
23 period, the proposed determination is a final determination. If the
24 notice is protested, the Tax Commissioner shall issue a written
25 order resolving such protests. The written order of the Tax

1 Commissioner resolving a protest may be appealed to the district
2 court of Lancaster County within thirty days after the issuance of
3 the order.

4 Sec. 16. Section 77-5735, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 77-5735 (1) The changes made in sections 77-5703,
7 77-5708, 77-5712, 77-5714, 77-5715, 77-5723, 77-5725, 77-5726,
8 77-5727, and 77-5731 by Laws 2008, LB 895, and sections 77-5707.01,
9 77-5719.01, and 77-5719.02 apply to all applications filed on and
10 after April 18, 2008. For all applications filed prior to such
11 date, the provisions of the Nebraska Advantage Act as they existed
12 immediately prior to such date apply.

13 (2) The changes made in sections 77-5725 and 77-5726 by
14 this legislative bill apply to all applications filed on or after
15 the operative date of this section. For all applications filed
16 prior to such date, the taxpayer may make a one-time election,
17 within the time period prescribed by the Tax Commissioner, to
18 have the changes made in sections 77-5725 and 77-5726 by this
19 legislative bill apply to such taxpayer's application, or in
20 the absence of such an election, the provisions of the Nebraska
21 Advantage Act as they existed immediately prior to the operative
22 date of this section apply to such application.

23 Sec. 17. Section 81-8,128, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 81-8,128 There is hereby established the position of

1 State Athletic Commissioner. The commissioner shall be appointed
2 by the Governor and shall hold office for a term of two years
3 commencing the first Thursday after the first Tuesday of January
4 in each odd-numbered year. The commissioner shall receive such
5 salary as the Governor may elect and shall be bonded or insured as
6 required by section 11-201. The commissioner may be reappointed for
7 successive terms.

8 The office of the commissioner shall be located within
9 the Charitable Gaming Division of the Department of Revenue.
10 The commissioner may exercise and perform his or her powers and
11 duties at any location in the state. The commissioner may employ
12 assistants and fix their compensation in conjunction with the
13 Charitable Gaming Division. The compensation of assistants ~~shall be~~
14 paid through the Charitable Gaming Operations Fund, and expenses
15 of the office of the commissioner shall be paid through the State
16 Athletic Commissioner's Cash Fund.

17 Sec. 18. The Revisor of Statutes shall assign section 4
18 of this act to Chapter 77, article 3.

19 Sec. 19. Sections 1, 17, 19, 23, and 24 of this act
20 become operative on July 1, 2010. Sections 6, 8, 11, 12, and 22
21 of this act become operative on October 1, 2010. Sections 9, 10,
22 and 20 of this act become operative on January 1, 2011. The other
23 sections of this act become operative three calendar months after
24 the adjournment of this legislative session.

25 Sec. 20. Original sections 77-2789 and 77-2790, Reissue

1 Revised Statutes of Nebraska, are repealed.

2 Sec. 21. Original sections 66-719, 77-2711, 77-27,119,
3 77-5725, 77-5726, and 77-5735, Reissue Revised Statutes of
4 Nebraska, and section 60-484, Revised Statutes Cumulative
5 Supplement, 2008, are repealed.

6 Sec. 22. Original sections 77-2701.38, 77-2712.03,
7 77-2796, and 77-27,100, Reissue Revised Statutes of Nebraska, are
8 repealed.

9 Sec. 23. Original sections 9-1,101 and 81-8,128, Reissue
10 Revised Statutes of Nebraska, are repealed.

11 Sec. 24. Since an emergency exists, this act takes effect
12 when passed and approved according to law.